

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 29.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Habeas Corpus Petition No.583 of 2006

K.Murugan

... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The Commissioner of Police,
Greater Chennai,
Egmore, Chennai 600 008.

... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records pertaining to the order of detention passed against the detenu Saravanan in Ref.No.9/BDFGISV/2006 dated 13.1.2006 by the second respondent herein and quash the same as not sustainable against the above named detenu and consequently direct the respondents to produce the body of the detenu Saravanan, S/o Kanniappan who has been confined in Central Prison, Chennai 600 003 before this Court and set him at liberty.

For Petitioner : Mr.P.Karthikeyan

For Respondents: Mr.M.Babu Muthu Meeran

Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the brother of the detenu by name Saravanan, who is detained as a "Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 13.01.2006, challenges the same in this petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was inordinate delay in disposal of the representation of the detenu.

The particulars furnished by the learned Additional Public Prosecutor show that the representation of the detenu was received by the Government on 08.03.2006, remarks were called for on 09.03.2006 and the same were received from the Sponsoring Authority on 10.03.2006. Thereafter, File was dealt with by the Under Secretary and Deputy Secretary on 15.03.2006. Finally, the Minister for Prohibition and Excise passed orders on 16.03.2006. However, the rejection letter was prepared only on 27.03.2006. The said letter was sent to the Central Prison for service on the same day i.e. 27.03.2006 and served to the detenu on 28.03.2006.

4. As rightly pointed out by the learned counsel for the petitioner, though the competent authority, viz., Minister for Prohibition and Excise, passed orders on 16.03.2006, there is no reason for taking time till 27.03.2006 for preparation of the rejection letter. In the absence of proper explanation, even if we exclude the intervening holidays on Saturday and Sunday, we hold that the delay is on the higher side, which caused prejudice to the detenu in considering his representation effectively. On this ground, the impugned order of detention is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with some other case or cause.

gms

सत्यमेव जयते

Sd/
Asst.Registrar

/true copy/

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Sub Asst.Registrar

To

1. THE SECRETARY TO GOVERNMENT,
STATE OF TAMIL NADU,
PROHIBITION AND EXCISE DEPARTMENT,
FORT ST. GEORGE, CHENNAI-9.

2. THE COMMISSIONER OF POLICE,
GREATER CHENNAI,
EGMORE, CHENNAI 600 008.

3. THE SUPERINTENDENT CENTRAL PRISON
CHENNAI

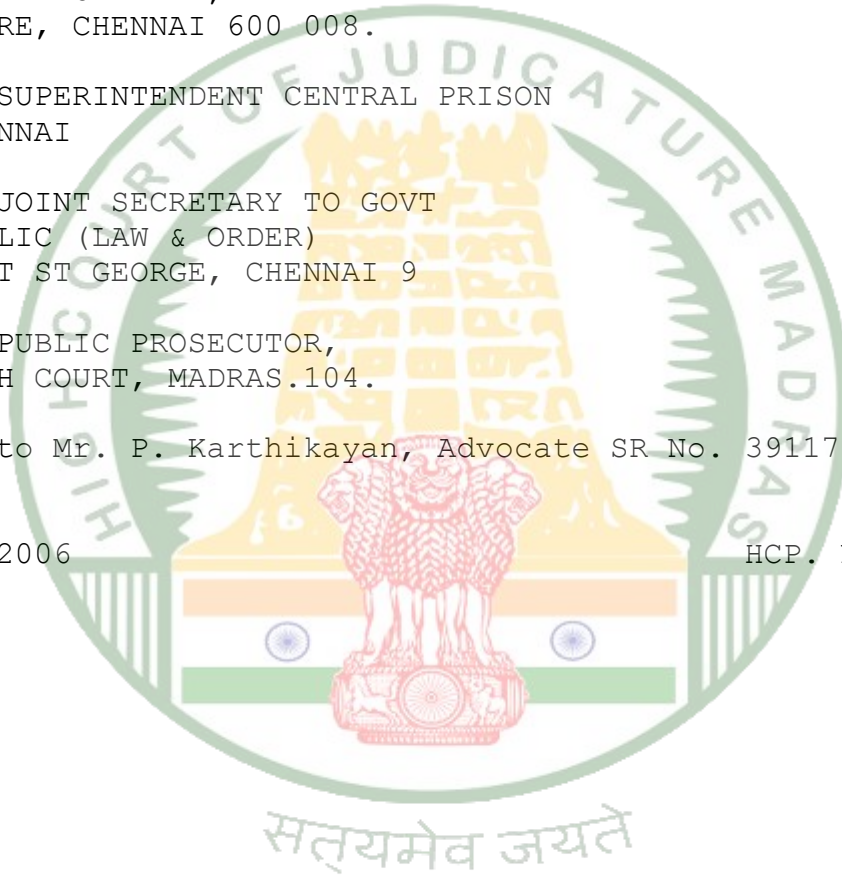
4. THE JOINT SECRETARY TO GOVT
PUBLIC (LAW & ORDER)
FORT ST GEORGE, CHENNAI 9

5. THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.104.

+ 1 cc to Mr. P. Karthikayan, Advocate SR No. 39117

PV(CO)
SR/6.9.2006

HCP. No.583 of 2006



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